

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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:  
JOSE ACOSTA, :  
:  
Petitioner, :  
:  
-against- :  
:  
PATRICK GRIFFIN, :  
:  
Respondent. :  
:  
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11 Civ. 8724 (LGS)(RLE)

ORDER

LORNA G. SCHOFIELD, District Judge:

Before the Court is the Report and Recommendation of Magistrate Judge Ronald L. Ellis (Dkt. No. 25) (“Report”), recommending that Petitioner Acosta’s petition for a writ of habeas corpus (“Petition”) be denied.

Petitioner filed his request for habeas relief (Dkt. No. 1) on November 14, 2011, pursuant to 28 U.S.C. § 2254. He then filed the amended Petition (Dkt. No. 7) on February 2, 2012, alleging ineffective assistance of counsel, and challenging the sentencing court’s application of the New York Persistent Felony Offender Statute. On September 3, 2013, Magistrate Judge Ellis issued the Report, recommending that the Petition be denied.

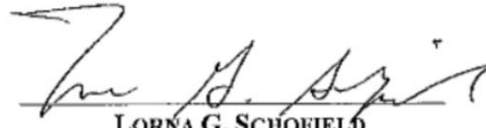
A district court reviewing a magistrate judge’s report and recommendation “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). The district court “may adopt those portions of the report to which no ‘specific, written objection’ is made, as long as the factual and legal bases supporting the findings and conclusions set forth in those sections are not clearly erroneous or contrary to law.” *Adams v. N.Y. State Dep’t of Educ.*, 855 F.Supp.2d 205, 206 (S.D.N.Y. 2012) (citing Fed. R. Civ. P. 72(b) *Thomas v. Arn*, 474 U.S. 140, 149 (1985)).

Having reviewed the Report, to which no objection has been made, the Court finds no clear error on the face of the record. Accordingly, the Court ADOPTS the Report in its entirety as the decision of the Court. Petitioner's request for a writ of habeas corpus is denied. A certificate of appealability shall not be issued, as Petitioner has made no substantial showing of the denial of a constitutional right.

The Clerk is directed to serve a copy of this Order to Petitioner and to close this case.

SO ORDERED.

Dated: October 3, 2013  
New York, New York



LORNA G. SCHOFIELD  
UNITED STATES DISTRICT JUDGE